AF/3617 IFW

Practitioner's Docket No. 006383.00005 ***PATENT***

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Todd A. Elson
Application No.: 10/697,472 Group No.: 3617
Filed: 10/29/2003 Examiner: Swinehart
For: ROLLER ASSEMBLY FOR FLOATING DOCK

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TRANSMITTAL OF APPEAL BRIEF
(PATENT APPLICATION--37 C.F.R. § 41.37)

1. Transmitted herewith, in triplicate, is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on August 31, 2005.

2. STATUS OF APPLICANT

This application is on behalf of a small entity. A statement was already filed.

{536062;}

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

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FRANK J. CATALANO

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** Only the date of filing (' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(f). Consider "Express Mail Post Office to Addressee" (' 1.10) or facsimile transmission (' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.*

3. FEE FOR FILING APPEAL BRIEF

Pursuant to 37 C.F.R. § 41.20(b)(2), the fee for filing the Appeal Brief is:

small entity	$250.00
Appeal Brief fee due	**$250.00**

4. EXTENSION OF TERM

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

5. TOTAL FEE DUE

The total fee due is:

Appeal brief fee	$250.00
Extension fee (if any)	$0.00
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6. FEE PAYMENT

Authorization is hereby made to charge the amount of $250.00 to Deposit Account No. 50-1971.

A duplicate of this transmittal is attached.

7. FEE DEFICIENCY

If any additional extension and/or fee is required, and if any additional fee for claims is required, charge Deposit Account No. 50-1971.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	TODD A. ELSON
SERIAL NO.:	10/697472
FILED:	10/29/2003
FOR:	ROLLER ASSEMBLY FOR FLOATING DOCK
DOCKET NO:	006383.00005
ART UNIT:	3617
EXAMINING ATTORNEY:	SWINEHART

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APPELLANT'S BRIEF (37 CFR 41.37)

This brief is in furtherance of the Notice of Appeal filed in this case on August 31, 2005.

The fees required under §1.17(f) and any required petition for extension of time for filing this brief and fees therefor are dealt with in the accompanying Transmittal of Appeal Brief.

This brief is transmitted in triplicate.

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

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Frank J. Catalano

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This brief contains these items under the following headings and in the order set forth below (37 CFR 41.37(c)):

I. REAL PARTY INTEREST

II. RELATED APPEALS AND INTERFERENCES

III. STATUS OF CLAIMS

IV. STATUS OF AMENDMENTS

V. SUMMARY OF CLAIMED SUBJECT MATTER

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

VII. ARGUMENT

VIII. CLAIMS APPENDIX

IX. EVIDENCE APPENDIX

X. RELATED PROCEEDINGS APPENDIX

I. REAL PARTY INTEREST (37 CFR 41.37 (c)(1)(i))

The real parties in interest in this appeal are the parties named in the caption of this Brief.

II. RELATED APPEALS AND INTERFERENCES (37 CFR 41.37 (c)(1)(ii))

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal, there are no such appeals or interferences.

III. STATUS OF CLAIMS (37 CFR 41.37(c)(1)(iii))

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

The claims in the application are claims 1-14.

B. STATUS OF ALL THE CLAIMS

1. Claims pending: 1-14.

2. Claims rejected: 1-6 and 12-14

3. Claims allowed: 7-11.

C. CLAIMS ON APPEAL

Claims 1-6 and 12-14 are on appeal.

IV. STATUS OF AMENDMENTS (37 CFR 41.37 (c)(1)(iv))

All amendments have been entered.

V. SUMMARY OF CLAIMED SUBJECT MATTER (37 CFR 41.37(c)(1)(v))

The elements of the claims on appeal are best understood in reference to particular portions of the Detailed Description (p.5, ln.2-p.6, ln.4; p.7, ln.3-p.8, ln.5; p.12, ln.10-18) and Figures 1-7.

An improvement is provided for facilitating travel of a watercraft hull (p.5, ln.2-4) on a floating dock 10 (p.5, ln.4-12). The dock 10 has a longitudinal valley 16 for receiving a keel of the watercraft and a pair of ridges 27 and 28 flanking the valley 16 for supporting opposite sides of the hull during docking and launching of the craft on and from the dock 10 (p.5, ln.19-24, Fig.3). The improvement consists of one or more roller assemblies 60 and pockets 31-38 (p.5, ln.25-31). Each roller assembly 60 consists of a wheel 65 mounted in the pocket 31-38 for rotation about a mid-portion 62 of an axle 61 (p.7, ln.3-9). The wheel 65 has a circumferential plane 66 which is parallel to the path of travel of the watercraft on the dock 10 (p.7, ln.10-12). The upper portion of the wheel 65 protrudes above the crest 29 or 30 of the ridge 27 or 28 (p.7, ln.25-28). The axle 61 has end bearing portions 63 and 64 which cooperate with seats 71 and 72 in the pockets 31-38 to list the circumferential plane 66 toward the valley 16 (p.7, ln.8-20).

Two or more roller assemblies 60 can be spaced apart in either or both ridges 27 and 28. Preferably, they are symmetrically located in relation to the valley 16 (p.6, ln.1-19). Most preferably, the roller assemblies 60 will have a list angle 67 which is substantially perpendicular to the contour of the hull of the watercraft at a point of contact therebetween. A list angle 67 in a range of 65 to 75 degrees will accommodate most hulls (p.7, ln.12-29). The wheels 65 protrude 75 above the crest 29 or 30 not more than 5/16" so as to allow the hull to rest on the dock 10 when the hull comes to a stop (p.7, ln.25-p.8, ln.2).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL (37 CFR 41.37(c)(1)(vi))

Are claims 1-6 and 13 unpatentable under 35 U.S.C. § 103(a) over Masters in view of Kilgore?

Are claims 12 and 14 unpatentable under 35 U.S.C. § 103(a) over Masters in view of Kilgore and further in view of Holsclaw

VII. ARGUMENT (37 CFR 41.37 (c)(1)(vii))

The Examiner rejects claims 1-6 and 12-14 under 35 U.S.C. § 103 as being unpatentable over Masters in view of Kilgore and, in the case of claims 12 and 14, further in view of Holsclaw.

The Examiner relies on Masters as disclosing "the field of the invention, including a floating dock with valley and a pair of ridges as claimed." The Examiner acknowledges that masters "fails to disclose wheels mounted within pockets as claimed."

The Examiner relies on Kilgore as teaching "ridges for supporting a watercraft" in which "each ridge includes pockets with wheels mounted therein upon bearings (inherent)" and as teaching that the "wheels list inwardly as claimed."

The Examiner argues that "The degree of protrusion of the roller(s) above the edge is considered to have been an obvious design consideration, well within the level of skill of the ordinary routineer working in the art at the time of the invention, providing no unexpected results."

The Examiner relies on Holsclaw as the basis for the argument that "adjusting of such surfaces (hull contacting surfaces) is notoriously old and well known in the art."

Appellant respectfully disagrees with each of these views expressed by the Examiner.

MASTERS

Appellant's claims are directed to one improvement in a floating dock. The dock is described in the claims as having a longitudinal valley for receiving the keel of the watercraft and a pair of ridges flanking the valley for supporting opposite sides of the hull. Appellant can partially agree with the Examiner as to Masters. Masters does disclose the "field of the invention," a floating dock for a watercraft. Masters does fail to disclose "wheels mounted within pockets as claimed." More accurately, however, Masters fails to disclose wheels, fails to disclose pockets, fails to disclose wheels mounted within pockets and fails to disclose or suggest any modification of its ridges including pockets or wheels. In sum, Masters discloses nothing about Appellant's claimed improvement. Masters merely shows a floating dock with ridges and a valley.

KILGORE

Kilgore discloses a beach ramp system for watercraft. It teaches nothing about floating docks for watercraft.

Kilgore teaches rails. Specifically, Kilgore teaches laterally placed rails 16 of rectangular cross section (Col.1, Ln.56-57, 59; Col.3, Ln.53). Looking at Appellant's Figure 3, the ridges 27

and 28 are raised portions of the dock top surface 15. Kilgore's rails are not ridges. Rails and ridges are not synonymous. Rails, as in Kilgore, are tracks. Ridges, as in Appellant's disclosure, are the raised portions of the surface of a floating dock of which they are a part. The Examiner offers no basis for the bare assertion equating "rails" and "ridges." The Examiner's effort to generally equate Kilgore's "rails" with Appellant's "ridges" has no basis or source other than the hindsight of Appellant's claims. In response to Appellant's position, the Examiner says that "A ridge as claimed does not set forth any structure so as to define over a rail arrangement." Appellant's claims define the ridges as part of the dock.

More particularly, Kilgore does not teach ridges that support a watercraft, as is the foundation of Appellant's claims and invention. Kilgore's watercraft never comes in contact with Kilgore's rails 16. Kilgore neither shows nor teaches that the rails 16 are a watercraft support. Kilgore specifically says that it is the "elastomeric disk-shaped roller support 32" which constitutes the watercraft support (Col.3, Ln.57-60) Kilgore shows the roller supports 32 supporting the watercraft (Fig.2). Applicant's disclosure teaches that the hull of the watercraft is actually seated on the crests 29 and 30 of the ridges 27 and 28 and on the nadir 17 of the keel valley 16 (P.5, Ln.19-23). As claimed, as the watercraft travels "on" the floating dock, the ridges 27 and 28 support the opposite sides of the hull of the watercraft.

Nor does Kilgore teach "wheels that list inwardly as claimed." Kilgore teaches specifically and only that "each upper extent (48) includes a lower angled portion and an upper essentially vertical portion" (Col.4, Ln.5-6). The circumferential plane of the roller support 32 is rectilinear on the rail. Since the extents 48 are angled, the roller supports assume the same angle. This does not teach the necessity of limiting the wheels as taught by Appellant. Appellant's

claims require that the axle end bearing portions cooperate with the pocket seats to cause listing." This relationship is not taught by Kilgore.

NOT AN OBVIOUS DESIGN CONSIDERATION

None of the references teach or suggest using protruding wheels to facilitate the passage of a watercraft hull onto a floating dock. Nor do they teach that the "degrees of protrusion of the roller(s)" is relevant to such a use. Masters has no wheels. Kilgore's rollers, and only the rollers, are the entire support for the watercraft. The "degree of protrusion of the roller(s)" being limited so that the watercraft hull, once strapped on the floats dock, rests on the ridges is not a "design consideration." It is an inventive change in known floating docks which facilitates loading and unloading the watercraft while still supporting the watercraft on the ridges of the dock. And it is contrary to Kilgore, which does not intend, teach or suggest that the hull of a watercraft would ever touch its rails, but intends that the watercraft ride and/or rest on the rollers only.

HOLSCLAW

Appellant teaches orientation of the wheel axles in the ridge of the floating dock so as to list the wheels toward the valley of the dock, this for the purpose of bringing the "circumferential plane of said wheel" into proper orientation. The ridge does not move. Holsclaw is a boat trailer "in which the longitudinal members are capable of bodily tilting as well as twisting to accommodate the rollers carried thereon to a surface" (Col. 1, ln.39-41). In Holsclaw, the rollers do not list in the support members 50. The support members 50 are pivoted (see Fig.2). This teaching is not usable in the non-tiltable ridges of a floating dock for a watercraft. Furthermore, Holsclaw's rollers are not wheels. They present a wide surface to the watercraft hull. The support members can pivot to allow the roller to conform to the hull (Col.3, ln.14-24). This is

accomplished by the use of jack screws (Col.3, ln.58-70). However, complete conformance is not possible if the hull is arcuate relative to the roller. Holsclaw does not operate like Appellant's claimed device and does not teach the claimed structure. Appellant is not teaching conforming a roller to a hull. Appellant is teaching fixing a "circumferential plane of a wheel" in a fixed ridge.

Furthermore, Holsclaw is used by the Examiner only in reference to Appellant's claims 12 and 14. Claim 12 addresses a fixed list angle within a specific range. Holsclaw has no such teaching. Claim 14 addresses a list angle at a point of contact. Holsclaw has no point of contact but tries to conform the length of the roller to the hull. However, where the hull does contact the roller, there is no teaching that the support member will twist to create a substantially perpendicular relationship of circumferential plane and hull at the point of contact. This is not a concern of Holsclaw.

THE CLAIMED INVENTION IS NOT OBVIOUS IN VIEW OF THE REFERENCES

Kilgore uses rollers 32 as the sole support for a watercraft over a beach (Fig.2). Kilgore uses a winch 52 (Fig.6) to pull the watercraft along roller supports 32 set in track rails 16 (Fig.2). Kilgore does not winch the watercraft with its hull dragging on the rails 16.

During loading, Appellant's ridges, valleys and other portions of the dock support the watercraft and the wheels function as a facilitator for loading the watercraft on the dock. After loading, only the ridges, valley and other portions of the dock support the watercraft -- not the rollers. Appellant describes this function in detail (p.5, ln.19-23; p.6, ln.28-30; p.7, ln.29-p.8, ln.2; p.12, ln.10-18). Appellant's claims recite that the ridges support the hull during docking and launching. Kilgore's rails never support the watercraft.

Kilgore doe not teach Appellant's claimed invention. Masters teaches only a floating dock. Together, they do not teach or suggest Appellant's claimed invention.

Furthermore, there is no suggestion or motivation in the references to support a combination of the beach ramp system rollers of Kilgore with the floating dock of Masters.

CONCLUSION

The preamble of Appellant's claims clearly teaches an "improvement comprising a pocket . . . and a wheel mounted in said pocket" for "facilitating travel of a water craft hull on a floating dock." The claims mean what they say. Appellant's wheels do not support the water craft. The ridges support the water craft. The wheels facilitate movement or travel of the water craft on the ridges. Neither Masters nor Kilgore teach the use of wheels on a floating dock. Kilgore teaches supporting a water craft not on its rails, but only on the wheels of its railway. Claims 1-6 and 12-14 are not unpatentable over the cited references.

Holsclaw does not teach a desired range of angles of list of a wheel or a substantial perpendicularity of a circumferential plane of a wheel. Therefore, claims 12 and 14 are further distinguished over the cited references.

Reversal of the Examiner's rejections of claims 1-6 and 12-14 is respectfully requested.

VIII. CLAIMS APPENDIX (37 C.F.R. 41.37(c)(1)(viii))

The text of the claims involved in the appeal are:

1. For facilitating travel of a watercraft hull on a floating dock having a longitudinal valley for receiving a keel of the watercraft therein and a pair of ridges flanking the valley for supporting opposite sides of the hull thereon during docking and launching of the craft on and from the dock, an improvement comprising a pocket in one of the ridges and a wheel mounted in said pocket for rotation about a mid-portion of an axle with a circumferential plane of said wheel parallel to a path of travel of the watercraft on the dock, an upper portion of said wheel protruding above a crest of the ridge, said axle having end bearing portions co-operable with seats in said pockets to list said circumferential plane toward the valley.

2. For facilitating travel of a watercraft hull on a floating dock having a longitudinal valley for receiving a keel of the watercraft therein and a pair of ridges flanking the valley for supporting opposite sides of the hull thereon during docking and launching of the craft on and from the dock, an improvement comprising at least two roller assemblies, each said assembly comprising a pocket in one of the ridges and a wheel mounted in said pocket for rotation about a mid-portion of an axle with a circumferential plane of said wheel parallel to a path of travel of the watercraft on the dock, an upper portion of said wheel protruding above a crest of the ridge, said axle having end bearing portions co-operable with seats in said pockets to list said circumferential plane toward the valley, said at least two roller assemblies being spaced apart longitudinally in one of the ridges.

3. For facilitating travel of a watercraft hull on a floating dock having a longitudinal valley for receiving a keel of the watercraft therein and a pair of ridges flanking the valley for supporting opposite sides of the hull thereon during docking and launching of the craft on and from the dock, an improvement comprising two roller assemblies, each said assembly comprising a pocket in one of the ridges and a wheel mounted in said pocket for rotation about a mid-portion of an axle with a circumferential plane of said wheel parallel to a path of travel of the watercraft on the dock, an upper portion of said wheel protruding above a crest of the ridge, said axle having end bearing portions co-operable with seats in said pockets to list said circumferential plane toward the valley, one said roller assembly being disposed in each of the ridges.

4. An improvement according to claim **3**, said roller assemblies being symmetrically located in relation to said valley.

5. For facilitating travel of a watercraft hull on a floating dock having a longitudinal valley for receiving a keel of the watercraft therein and a pair of ridges flanking the valley for supporting opposite sides of the hull thereon during docking and launching of the craft on and from the dock, an improvement comprising at least four roller assemblies, each said assembly comprising a pocket in one of the ridges and a wheel mounted in said pocket for rotation about a mid-portion of an axle with a circumferential plane of said wheel parallel to a path of travel of the watercraft on the dock, an upper portion of said wheel protruding above a crest of the ridge, said axle having end bearing portions co-operable with seats in said pockets to list said circumferential plane toward the valley, at least two said roller assemblies being spaced apart longitudinally in each of the ridges.

6. An improvement according to claim **5**, said roller assemblies being symmetrically located in relation to said valley.

12. An improvement according to claim 1, said list angle being in a range of 65 to 75 degrees.

13. An improvement according to claim 1, said wheel protruding above said edge not more than 5/16".

14. An improvement according to claim 1, said list angle being substantially perpendicular to a contour of the hull of the watercraft at a point of contact therebetween.

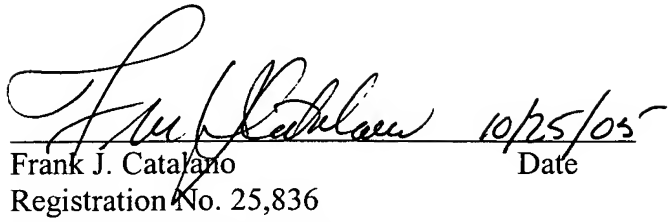
IX. EVIDENCE APPENDIX

Not applicable.

X. RELATED PROCEEDINGS APPENDIX

Not Applicable.

Respectfully submitted,



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